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2 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

3 -----X  
4 YEMISI AKINYEMI,

5 PLAINTIFF,  
6 07-CV-4048 (CM) (AJP)

7 -against-

8 MICHAEL CHERTOFF, SECRETARY,  
DEPARTMENT OF HOMELAND  
SECURITY,

9 DEFENDANTS.  
10 -----X

11 DATE: October 31, 2007

12 TIME: 10:32 a.m.

13

14 EXAMINATION BEFORE TRIAL of the  
Defendants, by a witness, JOLANTA GLUBA, taken  
15 by the Plaintiff, pursuant to a Notice, held at  
16 the offices of United States Attorney's Office,  
17 Southern District of New York, 86 Chambers  
18 Street, New York, New York 10007, before Helen  
19 Shum, a Notary Public of the State of New York.

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25

1 J. GLUBA

2 A. Warsaw, Poland.

3 Q. Just for the record, what's your  
4 race?

5 A. White.

6 Q. Who's your employer?

7 A. Customs and Border Protection.

8 Q. What's your highest education level  
9 attainment?

10 A. I have a graduate degree, master's.

11 Q. When did you obtain that master's  
12 degree?

13 A. I obtained it -- I graduated June  
14 of '07.

15 Q. I take it then that you have a  
16 bachelor's degree?

17 A. I have a bachelor's degree.

18 Q. When did you graduate with your  
19 bachelor's degree?

20 A. January of '04.

21 Q. When did you first become employed  
22 by the Customs and Border Protection?

23 A. March 2002.

24 Q. When you became employed, what was  
25 your title?

1 J. GLUBA

2 A. Officer in training, COOP Program.

3 Q. Officer in training?

4 A. Yes, officer in training.

5 Q. When you first became an employee  
6 for the CBP, I'll call it CBP for short, were  
7 you required to complete a probationary period  
8 as part of your requirement?

9 A. Yes.

10 Q. How many months or years of  
11 probation were you required to complete?

12 A. Two years.

13 Q. When did your probation begin?

14 A. March of 2002.

15 Q. When did it end?

16 A. March of 2004, but I was also -- I  
17 was promoted to officer at that time.

18 Q. When were you promoted to officer?

19 A. March 18th of 2004.

20 Q. What's your current job title?

21 A. Officer, CBP officer.

22 Q. So is it fair to say from March 18,  
23 2004 till the present time your title has been  
24 CBP officer?

25 A. Yes.

1 J. GLUBA

2 A. January 2, 2005.

3 Q. Where did that occur?

4 A. Exam belt, Terminal C.

5 Q. Terminal Six?

6 A. C, C like Charlie.

7 Q. Where is that located when you say  
8 exam belt, Terminal C? Where is that located?

9 A. In the FIS area.

10 Q. Is it at an airport?

11 A. At the airport.

12 Q. Which airport?

13 A. Newark Liberty International  
14 Airport.

15 Q. Could you describe the incident as  
16 it occurred as you remember it?

17 A. Okay. I had a passenger that was  
18 referred to me from the control point and  
19 passenger was referred to secondary. As he  
20 approached secondary, he was shouting. As the  
21 passenger approached secondary, I asked the  
22 passenger routine custom questions, asked  
23 passenger to put his bag on the exam belt, and  
24 as I further proceeded to do my queries, upon  
25 the queries, I was instructed to -- I was

1 J. GLUBA

2 Q. Who's your current supervisor?

3 A. Supervisor Steven Troman.

4 Q. Steven with a V or with a P?

5 A. V.

6 Q. For how long have you been

7 supervised by Mr. Steven -- is it Truman?

8 A. Troman. Approximately a year and a  
9 half.

10 Q. Prior to Mr. Troman, who was your  
11 supervisor?

12 A. Supervisor John Nolan.

13 Q. Was John Nolan your supervisor in  
14 2005?

15 A. Yes.

16 Q. Has there ever been an incident  
17 involving you in which sensitive information  
18 got to a person who shouldn't have that  
19 information?

20 MR. CLOPPER: Objection. Let me  
21 just think about this for a moment. You  
22 can answer that to the best of your  
23 ability, to the extent you know.

24 A. To the -- yes.

25 Q. When did that occur?

1 J. GLUBA

2 instructed to do something.

3 So I proceeded to call the  
4 supervisor and supervisor asked me to come into  
5 the office and see him with a passport. As I  
6 was exiting -- as I was exiting the area, I  
7 remember I locked my computer, walked into the  
8 supervisor's office. Supervisor looked at the  
9 passport, told me to go see another officer in  
10 another office, and as I'm walking to the other  
11 office, the passenger was asking me if  
12 everything's okay. I told him, "Everything's  
13 fine. Just give me a few more minutes."

14 As I walked into the other office,  
15 I proceeded to do what I was instructed to, and  
16 during that time, the passenger walked into the  
17 exam belt and played with something with the  
18 computer, and another supervisor walked out of  
19 the office and witnessed the passenger in the  
20 area and instructed the passenger to leave the  
21 area and had another officer watch the  
22 passenger. During the time -- during that  
23 time, the supervisor walked into this other  
24 room where I was doing what I was instructed  
25 to, and he told me the incident that happened,

1 J. GLUBA

2 and I told him I -- no. I locked the computer,  
3 and from then on, I know the supervisor spoke  
4 to the passenger, and that was it.

5 Q. Let's just go back a little bit.

6 You said that the passenger was referred from  
7 control point. What does that mean?

8 A. The control point is where a  
9 passenger walks up for an exit from the  
10 immigration with his bags. He's either  
11 instructed by a control point officer to exit  
12 the area. He's free to go or he goes into  
13 secondary. If the passenger has a high stamp,  
14 he comes into the secondary area.

15 Q. In this particular passenger's  
16 case, what was the reason that he was sent to  
17 secondary?

18 MR. CLOPPER: Objection; law  
19 enforcement privilege. I'm directing  
20 the witness not to answer, but I may be  
21 able to give an answer to this question.  
22 So I'm going to step outside with  
23 Officer Gluba for a moment very quickly  
24 to see what we can answer and what we  
25 can't, and we'll be right back.

1 J. GLUBA

2 (Whereupon, the witness,

3 Mr. Clopper, Ms. Acevedo and

4 Mr. Talarico left the room.)

5 MR. CLOPPER: You could ask the

6 question again or read it back, if you

7 like.

8 MR. OKOLI: Just read back the

9 question.

10 (Whereupon, the referred to

11 question was read back by the Reporter.)

12 A. He was sent into secondary for a

13 law enforcement lookout.

14 Q. At the time that this person was

15 sent to secondary, were you the only officer

16 there or was there any other officer with you

17 at the location?

18 A. No. I was the only officer.

19 Q. What were you supposed to perform

20 in connection with this passenger?

21 A. I don't understand.

22 Q. What were you supposed to do with

23 this passenger who came to secondary?

24 A. Do a secondary exam.

25 Q. What would that be? What would the

1 J. GLUBA

2 secondary exam constitute?

3                   A.        Routine customs questions and  
4       whatever I was required to do on the law  
5       enforcement lookout and bag checks.

6 Q. Bag checks?

#### 7 A. Baggage checks.

8                   Q.     Do you recall who it was that  
9     instructed you to do a secondary on this  
10   person?

11 MR. CLOPPER: You can answer that.

12 THE WITNESS: I can answer who it  
13 was?

14 MR. CLOPPER: Tell me.

15 Q. I said who. I'm just talking about  
16 name, nothing else, name of officer who gave  
17 you the instruction.

18 MR. CLOPPER: Unfortunately...

19                   A.       I mean, the lookout instructed me  
20                  to do certain things.

21 MR. CLOPPER: You can't give the  
22 name, and you can't give the identity of  
23 the agency.

A. No, I can't.

25 MR. CLOPPER: I'm instructing you

1 J. GLUBA

2 not to give the name or the identity of  
3 the agency and the remainder of what you  
4 told me.

5 A. Law enforcement lookout or whatever  
6 was in the lookout to instruct me to do, I  
7 proceeded to do.

8 Q. Was this instruction given to you  
9 verbally or was it communicated through  
10 computer?

11 A. It was communicated through the  
12 computer.

13 Q. So you saw this come up on your  
14 computer?

15 A. Yes.

16 Q. You said this individual then  
17 approached? This passenger then came to your  
18 location?

19 A. Yes.

20 Q. And did you say you performed some  
21 queries?

22 A. Yes, I did.

23 Q. Was it in the course of performing  
24 these queries that another supervisor asked you  
25 to come see them or had you finished --

1 J. GLUBA

2 A. No. It's just a regular routine  
3 that every time a passenger is referred, we do  
4 queries. We query that passenger.

5 Q. When you were doing this query,  
6 where was this passenger in relation to you?

7 A. On the opposite, across from me.

8 Q. When you say opposite from you, was  
9 there a desk between you and this passenger?

10 A. Yes, there was.

11 Q. You had a computer on the desk?

12 A. Inside the booth there.

13 Q. Inside the desk?

14 A. Yes.

15 Q. I imagine the computer screen was  
16 facing you?

17 A. Yes.

18 Q. This would mean that the back of  
19 the computer would be facing the passenger?

20 A. The passenger.

21 Q. Fair to say?

22 A. Yes.

23 Q. Was it something like a cubicle?

24 A. Similar, a little different.

25 Cubicle is more of enclosed totally. This

1 J. GLUBA

2 wasn't enclosed.

3 Q. But just to be clear, the computer  
4 was not on top of the desk. It was like under?

5 A. It was secured into the cubicle,  
6 the desk area that if a passenger standing  
7 across from me, the passenger can't see the  
8 computer.

9 Q. And did you say at some point after  
10 the query, some supervisor asked you to come  
11 and see them; is that what you said?

12 A. Yes.

13 Q. What was the name of this  
14 supervisor who asked you to come see them?

15 A. Anthony Scaringella.

16 Q. At the time that Mr. Scaringella  
17 asked you to come and see him, do you recall  
18 specifically what the reason was he asked you  
19 to come and see him?

20 A. I don't recall.

21 Q. Do you recall whether why he asked  
22 you to come to see him had to do with the  
23 passenger or something else?

24 A. It had to do with this passenger.

25 Q. When you went to see him, did you

1 J. GLUBA

2 go with the passenger?

3 A. No. I told the passenger, "You  
4 should just stand by the belt area."

5 Q. When you say "belt area," is this a  
6 conveyer belt?

7 A. Yes. There's a desk. There was a  
8 space, and then the exam belt area  
9 (indicating).

10 Q. So when you asked the passenger  
11 to wait by the belt area and you went to see  
12 Mr. Scaringella, you went with the passenger's  
13 passport?

14 A. Yes.

15 Q. And what else?

16 A. Just the passenger's passport.

17 Q. There was nobody else around  
18 the passenger at the time you went to see  
19 Mr. Scaringella?

20 A. No.

21 Q. How far was Mr. Scaringella's  
22 office to the location where you were with this  
23 passenger?

24 A. Approximately from here to the door  
25 (indicating), 500 feet, a thousand feet.

1 J. GLUBA

2 sent him on his way. At what point was he  
3 questioned?

4 A. Right after when he asked me, "What  
5 happened? Did you lock your computer?" Right  
6 after that, when I walked in to grab the  
7 passenger's passport in the enforcement room.  
8 During that time, Supervisor Frank questioned  
9 the passenger.

10 Q. Do you know --

11 A. From my understanding, I just know  
12 from him telling me that he asked the  
13 passenger.

14 Q. Did he tell you what the passenger  
15 told him?

16 A. The passenger told him that he saw  
17 certain things that he already knew from  
18 earlier on.

19 Q. Did he say what those things were  
20 that he saw?

21 A. No.

22 Q. But he saw information on the  
23 computer screen?

24 A. Yes.

25 Q. Did Mr. Frank tell you that he had

1 J. GLUBA

2 A. Deputy Chief Maresca asked about  
3 the situation.

4 Q. And you told him the same thing?

5 A. I told him the same things I told  
6 the other deputy and supervisors that asked me.  
7 He explained to me that I'm on probation and  
8 that my weapon will be taken away and that I am  
9 put into -- it's an internal investigation, and  
10 I need to report to a cargo facility called  
11 CACEF tomorrow at 8:00 a.m.

12 Q. Just to be clear on this, Deputy  
13 Chief Maresca, after you had explained to him  
14 what happened, he told you you were on  
15 probation?

16 A. Yes.

17 Q. Were you on probation at the time?

18 A. To my knowledge, I was.

19 Q. He told you you were on probation  
20 and now will be reassigned?

21 A. Yes.

22 Q. To where?

23 A. Cargo facility CACEF.

24 Q. Where is that located?

25 A. In the airport, Building 50, Newark

1 J. GLUBA

2 Liberty International Airport, Building 50.

3 Q. Did Supervisor Frank say anything  
4 at this meeting?

5 A. No.

6 Q. How soon after this meeting were  
7 you reassigned to the cargo facility?

8 A. The next day.

9 Q. Did you have a supervisor at the  
10 cargo facility?

11 A. Yes.

12 Q. Who was the supervisor at the cargo  
13 facility?

14 A. Bun Tang, B-U-N, T-A-N-G, last  
15 name.

16 Q. Is it a Ms. or Mr.?

17 A. Mr.

18 Q. Do you know Mr. Bun Tang's title?

19 A. Supervisor.

20 Q. For how long did you work at the  
21 cargo facility?

22 A. Four and a half months.

23 Q. After the four and a half months,  
24 what happened?

25 A. I was called in to the area

1 J. GLUBA

2 director, and I was told my case was closed and  
3 that I'm receiving a disciplinary letter that  
4 will stay on file for a year and that if any  
5 incident happens within that year, I will be  
6 terminated.

7 Q. Who was the area director that  
8 you're referring to?

9 A. Kathleen Haage-Gaynor.

10 Q. Could you describe Kathleen  
11 Haage-Gaynor, her physical appearance?

12 A. White female, six feet tall, blonde  
13 hair, eyeglasses.

14 Q. In the four and a half or so months  
15 that you were at the cargo facility, did you  
16 receive a salary?

17 A. Yes, I did.

18 Q. The same salary you were earning at  
19 the time that you worked at the secondary, the  
20 belt area?

21 A. Yes, without overtime.

22 Q. Sorry.

23 A. Without overtime.

24 Q. But you received your base salary?

25 A. Base salary.

1 J. GLUBA

2 EXAMINATION BY

3 MR. CLOPPER:

4 Q. When Mr. Okoli was questioning you,  
5 he asked you about supervisor -- I think it was  
6 Anthony Scaringella's office and the windows in  
7 the office. Are there windows all the way  
8 around the office?

9 A. Yes.

10 Q. And could you see through those  
11 windows or were they closed by blinds?

12 A. No. You can see through them.

13 Q. So you could see into the office  
14 from standing outside, and you could see out of  
15 the office from standing inside?

16 A. Yes.

17 Q. Thank you. Second, Mr. Okoli asked  
18 you about, I believe, what you did at the time  
19 you left your workstation to go speak with  
20 Supervisor Scaringella. Did you attempt to  
21 lock the screen of the computer at that time?

22 A. Yes, I did.

23 Q. At the time, did you have any  
24 reason to believe the computer was not working  
25 properly?

1 J. GLUBA

2 A. Yes, I did.

3 Q. At the time, you knew that?

4 A. At that time, no.

5 Q. Do you know now whether or not the  
6 computer was working properly?

7 A. Yes.

8 Q. What do you know?

9 A. That another officer filed a  
10 complaint a few months in advance that the  
11 computer had some type of malfunctions.

12 MR. CLOPPER: Thank you.

13 MR. OKOLI: Just a few questions.

14 EXAMINATION BY

15 MR. OKOLI:

16 Q. Now, when you said you attempted to  
17 lock the computer, what specifically did you do  
18 to attempt to lock the computer?

19 A. I hit control, alt, delete.

20 Q. Did you observe the screen of the  
21 computer to see what happened after you hit  
22 control, alt, delete?

23 A. Yes.

24 Q. What did you see on the computer?

25 A. I saw a blank screen with the